

STATE OF CALIFORNIA



STATE BOARD OF EQUALIZATION

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No. 85/90

September 5, 1985

TO COUNTY ASSESSORS:

HOOPER v. BERNALILLO COUNTY ASSESSOR

On June 24, 1985 the United States Supreme Court invalidated a New Mexico requirement that an applicant for the property tax Vietnam veterans' exemption must have been a resident of that state before May 8, 1976. The court found that no legitimate state purpose supported this residency requirement and that it was, therefore, invalid under the Equal Protection Clause of the United States Constitution. (Hooper v. Bernalillo County Assessor, \_\_\_U.S.\_\_\_ 6/24/85). This decision has raised questions from assessors regarding the validity of similar residency requirements found in both the veterans' exemption and the disabled veterans' exemption provided for in California law.

We have been advised by the Board's legal staff that Section 3.5 of Article III of the California Constitution provides that an administrative agency has no power to declare a statute unenforceable, or to refuse to enforce a statute, on the basis that it is unconstitutional unless an appellate court has made a determination that "such statute" is unconstitutional. The legal staff recommends, therefore, that California assessors continue to administer both the veterans' exemption and the disabled veterans' exemption in accordance with the current law until there is a final appellate court decision specifically dealing with the California residency requirements or the applicable provisions of law are revised.

Sincerely,

Verne Walton, Chief  
Assessment Standards Division

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